

REMARKS

This is in response to the Office Action dated February 10, 2005.

I. SUMMARY OF OFFICE ACTION

In the Office Action, the Examiner objected to the drawings based on a contention that the drawings do not show every feature of the invention specified in the claims, specifically, the fluid level actuator activating the pump as recited in Claim 4. The Examiner also objected to Claim 15 based on a contention that “cubular” should be changed to “tubular.”

Claim 1 was rejected under 35 USC § 103(a) as being unpatentable over Pace (U.S. Pat. No. 2,900,079) in view of Takacs (U.S. Pat. No. 3,616,468) based on a contention that the Pace reference discloses all the claim limitations of Claim 1 except that the weir is not mounted in such a way that the particulate in the fluid passes under the weir and that it would have been obvious to one of ordinary skill in the art to at the time the invention was made to have modified the Pace reference by mounting the weir in the top side of the inlet in view of the teachings of Takacs. The Examiner noted that such modification would be considered a mere substitution of one functionally mounting configuration for a weir within the swimming pool art that would work equally well on the Pace device.

Claims 2, 3, 7-10 and 12-17 were rejected under 35 USC 103(a) as being unpatentable over the modified Pace device as discussed above, in view of Downs (U.S. Pat. No. 6,158,064) based on a contention that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Pace reference by employing a fluid level regulator in order to ensure that the skimmer well is always filled with water to protect the pump and other associated components.

Claim 11 was rejected under 35 USC § 103(a) as being unpatentable over the modified Pace device, as discussed above, in view of Adams (U.S. Pat. No. 3,910,840) based on a contention that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Pace device by employing a conical tray for receiving and securing the filter in view of the teachings of Adam.

The Examiner noted that Claims 4-6 were objected to “since they are free of prior art.” (Office Action, page 8). Applicant understands this to mean that they are objected to for being dependent upon a rejected base claim but would be allowable if they were rewritten to include all of the limitations of the base claim and any intervening claims.

II. APPLICANT'S RESPONSE

A. *Claims 4-18, 33 and 34*

In the Office Action, the Examiner indicated that the claimed subject matter of Claims 4-6 are only objected to since they are free of prior art. Applicant responds to the current outstanding Office Action with the understanding that such objection to Claims 4-6 means that they are objected to for being dependent upon a rejected base claim but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims. In response, Applicant has incorporated the subject matter of base Claim 1 and intervening Claims 2 and 3 into Claim 4 thereby amending Claim 4 to be an independent claim. Accordingly, Applicant respectfully submits that the Examiner’s objection to Claim 4 for being dependent upon rejected claims has been overcome and that Claim 4 is now in condition for allowance.

Claim 6 has been amended by changing its dependency from Claim 5 to currently amended Claim 4. Nonetheless, Applicant respectfully submits that Claim 6 is in condition for allowance for being dependent upon an allowable base claim.

In the Office Action, the Examiner also objected to Claim 15 base on the contention that the term “cubular” should be changed to “tubular”. In response, Applicant has amended the term “cubular” in Claim 15 to now recite “tubular.” Also, Applicant has amended the term “cubular” to “tubular” throughout the specification, as shown above. Accordingly, the Examiner’s objection to Claim 15 has been overcome.

Claims 8-18 have been amended to be dependent upon independent base Claim 4. Further, Applicant respectfully request entry of new dependent Claims 33 and 34 into the prosecution of the above-identified patent application. These claims also depend upon independent base Claim 4.

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For the foregoing reasons, Applicant respectfully submits that the dependent claims of Claim 4, namely, Claims 5, 6, 8-18, 33 and 34 are allowable for being dependent upon an allowable base claim. Also, Applicant respectfully submits that these dependent claims of Claim 4 are also allowable for containing additional patentable subject matter.

B. *Claims 35-38*

Applicant respectfully requests entry of new Claim 35-38 into the prosecution of the above-identified patent application. Base Claim 35 is a broadened version of currently amended base Claim 4. In particular, new Claim 35 incorporates the subject matter of original Claim 4 but does not incorporate (1) the inlet surface limitation, (2) the weir limitation and (3) the relative fluid transfer rates limitations. Nonetheless, Applicant respectfully submits that new Claim 35 is in condition for allowance based on a contention that the subject matter of original Claim 4 has been incorporated into new Claim 35. Furthermore, Applicant respectfully submits that the dependent claims of Claim 35, namely, Claims 36-38 are also in condition for allowance for being dependent upon Claim 35 which is believed to be allowable. Also, Applicant respectfully submits that Claims 36-38 are in condition for allowance for containing additional patentable subject matter.

C. *Drawings*

In the Office Action, the Examiner objected to the drawings under 37 C.F.R. §1.83(a) based on a contention that the drawings do not show every feature of the invention specified in the claims. In particular, the Examiner stated that the limitation of “the fluid level [regulator] activates the pump” as recited in Claim 4 must be shown in the drawings. In response, Applicant submits concurrently herewith a Replacement Sheet for Figures 1 and 2, as Exhibit A. Figure 1 shown in the Replacement Sheet shows the fluid level regulator 29 being in communication with the reservoir pump 24. Accordingly, the limitation that “the fluid level [regulator] activates the pump” as recited in Claim 4 is now shown in the drawings, specifically, in Figure 1. Hence, the Examiner’s objection to the drawings under 37 C.F.R. §1.83(a) has been overcome.

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III. CONCLUSION

For the foregoing reasons, Applicant respectfully submits that all the stated grounds of rejections and objections made in the Office Action have been overcome. Thus, Applicant respectfully submits that Claims 4-18 and 33-38 are in condition for allowance. Accordingly, an early Notice of Allowance is respectfully requested. Should the Examiner have any suggestions for expediting allowance of the application, the Examiner is invited to contact Applicant's representative at the telephone number listed below.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: 4/16/05 By:

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